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May 21, 2008

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Implementation of Section 224 of the Act; Amendment of the Commission's
Rules and Policies Governing Pole Attachments, WC Docket No. 07-245

EX PARTE NOTICE

Dear Ms. Dortch:

On May 21, 2008, Carl Biersack, Russ Campbell, Allen Estes and I (on behalf of Florida Power & Light Co., Tampa Electric Co., Progress Energy Florida, Inc. and Oncor Electric Delivery Co.) (collectively the "Electric Utilities") met with Commissioner Jonathan S. Adelstein and his Senior Legal Advisor, Scott K. Bergmann, in connection with the above-referenced Notice of Proposed Rulemaking. During the meeting we made the points expressed in the attached handout, as well as other points consistent with the comments filed by my firm on behalf of the Electric Utilities.

Pursuant to Section 1.1206(b) of the Commission's rules, a copy of this notice of *ex parte* communication is being filed electronically in the above-referenced matter. Please contact me if you have any questions.

Very truly yours,

/s

Eric B. Langley

Attachment

cc: Commissioner Jonathan S. Adelstein
Mr. Scott K. Bergmann

Pole Attachment NPRM

WC Docket No. 07-245

***Ex Parte* Presentation**
May 21, 2008



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Electric Utilities

Company	Customers	Poles
Florida Power & Light	4.5 million	1.1 million
Progress Energy Florida	1.7 million	1.1 million
Tampa Electric	0.7 million	0.3 million
Oncor Electric Delivery	3 million	2 million
TOTAL:	9.9 million	4.5 million

NPRM Issue Summary

- ❑ Safety, Reliability and Engineering
 - Section 224(f)(2) concerns
 - Defer to State and utility standards
- ❑ Relationship between ILECs and Electric Utilities
 - Pole Attachment Act excludes jurisdiction over ILEC attachments
 - ILECs and CATV/CLECs are apples and oranges
- ❑ Broadband Rate
 - Support unified rate for CATV/CLEC broadband attachments
 - Telecom Rate*

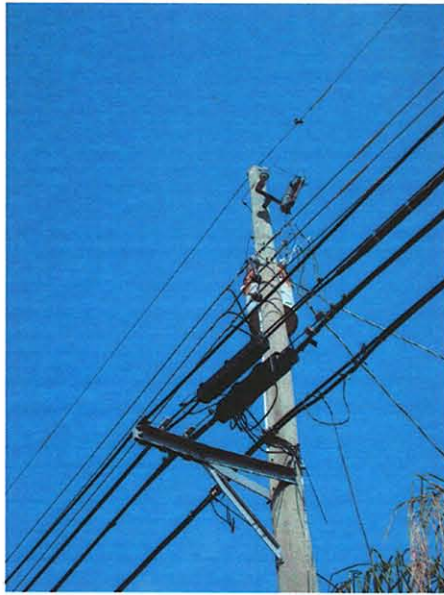
Safety, Reliability and Engineering (Slide 1 of 2)

- ❑ One size does NOT fit all
 - NESC is a safety code; not a design code
 - Safety and reliability are separate and only sometimes overlapping concerns
- ❑ Preserve local discretion over distribution standards
 - Pole attachment standards are just ONE PART of a utility's overhead distribution standards
 - Utility and State specific issues (e.g. construction materials and techniques, Florida Hardening proceedings)
 - Wireless antennae pole top access

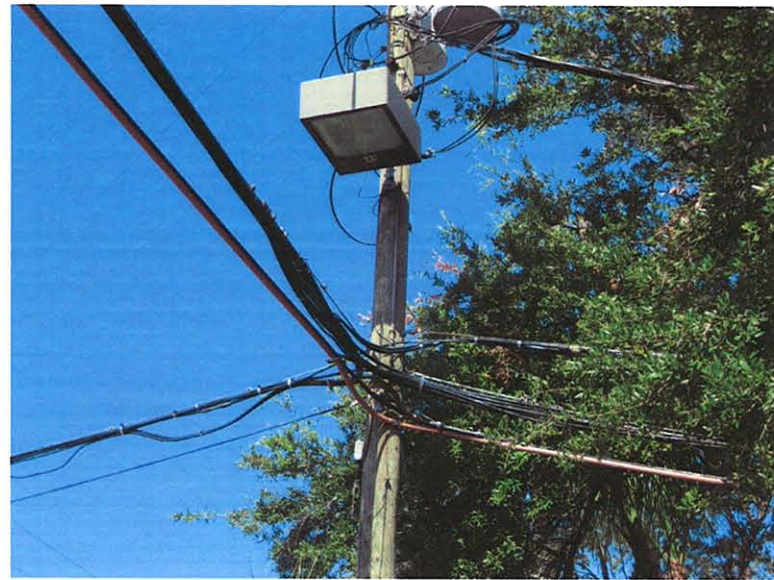
Safety, Reliability and Engineering (Slide 2 of 2)

- ❑ Even with deference, Commission can:
 - Ensure non-discriminatory **application** of standards
 - Without **creating** standards
- ❑ *Fibertech* Proposals Should Be Rejected
 - Speed-to-market of communications services should not trump safety and reliability of electric distribution system
 - Electric Utilities not required to expand capacity (perform make ready) → Section 224(f)(2)
- ❑ Electric Utilities are not in competition with broadband providers

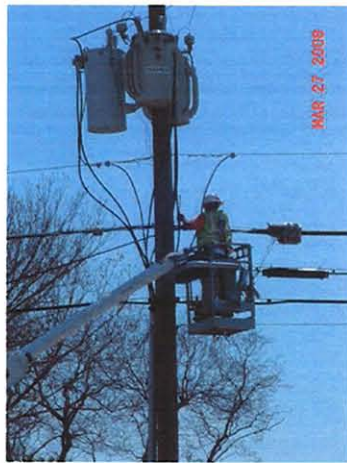
Safety and Reliability Are Real Issues



Standoff bracket



Overlashing



Safety violations



Dispelling ILEC Myths (Slide 1 of 2)

- ❑ Pole Attachment Act excludes jurisdiction over ILEC attachments
- ❑ ILECs are not similarly situated to CATV and CLEC
 - “Joint Use” relationships premised on true infrastructure cost-sharing
 - ILECs would pay **nothing** in “rental” if they were in parity of ownership

Dispelling ILEC Myths (Slide 2 of 2)

- ❑ Times, they are NOT a-changing
 - ILECs placing equal or greater burden on poles today
 - Changes in relative ownership since 1996 are slight and within the control of the ILECs

- ❑ Poles are NOT profit centers
 - If so, ILECs would own more of them
 - Any perceived disparity between ILEC rates and CATV/CLEC rates is because:
 - They are designed to quantify different relationships
 - CATV/CLEC rates do not capture true cost of ownership

What Should The FCC Do?

- ❑ **Defer to States and utilities on matters of safety, reliability and engineering**
 - Safety and reliability of critical infrastructure at risk
 - ILECs and electric utilities agree
 - These are local issues
- ❑ **Continue to recognize statutory exclusion of ILEC attachments**
 - Relationship between ILECs and electric utilities is unique
 - CATV, CLEC, and electric utilities agree
- ❑ **Unify rate for CATV/CLEC broadband attachments at Telecom Rate (with tweaked presumptions)**
 - ILEC, CLEC and electric utilities agree